

## HOUSE BILL NO. 154

INTRODUCED BY LENHART

BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; ~~DEFINING THE TERM "RETIREMENT"~~; REVISING THE POWERS OF THE BOARD; REVISING THE DUTIES OF EMPLOYERS; CLARIFYING METHODS OF PURCHASING SERVICE; CLARIFYING PROVISIONS ON ESTABLISHING AN ARRANGEMENT FOR PAYMENT OF EXCESS BENEFITS; CLARIFYING DATES RELATED TO PURCHASING OUT-OF-STATE PUBLIC TEACHING SERVICE; PROVIDING THAT BENEFITS MUST BE CORRECTED UPON DISCOVERY OF A FORGED SIGNATURE; PROVIDING THAT COST-OF-LIVING INCREASES MUST BE INCLUDED WITH RESPECT TO MAXIMUM BENEFIT AND MAXIMUM COMPENSATION LIMITS; REVISING THE WAITING PERIOD REQUIRED BEFORE RECEIVING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT; REVISING PROVISIONS ON TRANSFERRING CREDIT FOR PART-TIME EMPLOYMENT; CLARIFYING PROVISIONS ON RESTORATION OF MEMBERSHIP; ALLOWING BENEFICIARIES TO HAVE CERTAIN INSURANCE PREMIUMS WITHHELD FROM THEIR BENEFIT PAYMENTS; AMENDING SECTIONS 19-20-101, 19-20-201, 19-20-208, 19-20-212, 19-20-402, 19-20-414, 19-20-705, 19-20-710, 19-20-715, 19-20-718, 19-20-719, 19-20-805, 19-20-905, AND 19-20-1101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 19-20-101, MCA, is amended to read:

**"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member's individual account in the annuity savings fund, together with interest. Regular interest must be computed and allowed to provide a benefit at the time of retirement.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) "Average final compensation" means the average of a member's earned compensation during the 3 consecutive years of full-time service or as provided under 19-20-805 that yield the highest average and on which contributions have been made as required by 19-20-602. If amounts defined in subsection (6)(b) have been converted by an employer to earned compensation for all members and have been continuously reported as earned compensation in a like amount for at least the 5 fiscal years preceding the member's retirement, the amounts may be included in the calculation of average final compensation. If amounts defined in subsection (6)(b) have been reported as earned compensation for less than 5 fiscal years or if the member has been given the option to have amounts reported as earned compensation, any amounts reported in the 3-year period that constitute average final compensation must be included in average final compensation as provided under 19-20-716(1)(b).

(4) "Beneficiary" means one or more persons formally designated by a member, retiree, or benefit recipient to receive a retirement allowance or payment upon the death of the member, retiree, or benefit recipient.

(5) "Creditable service" is that service defined by 19-20-401.

(6) (a) "Earned compensation" means, except as limited by 19-20-715, remuneration, exclusive of maintenance, allowance, and expenses, paid for services by a member out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code are deducted from the member's compensation.

(b) Earned compensation does not mean:

(i) direct employer premium payments on behalf of members for health or dependent care expense accounts or any employer contribution for health, medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

(E) automobile, travel, lodging, or entertaining expenses; or

(F) any similar payment for any form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits; or

1 (iv) any noncash benefit provided by an employer to or on behalf of an employee.

2 (c) Unless included pursuant to 19-20-716, earned compensation does not include termination pay.

3 (d) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same  
4 or like amount as a pretax deduction is considered a fringe benefit and not earned compensation.

5 (e) Earned compensation does not include:

6 (i) compensation paid to a member from a plan for the deferral of compensation under section 457(f)  
7 of the Internal Revenue Code;

8 (ii) payment for sick, annual, or other types of leave that is allowed to a member and that is accrued in  
9 excess of that normally allowed; or

10 (iii) incentive or bonus payments paid to a member that are not part of a series of annual payments.

11 (7) "Employer" means the state of Montana, the trustees of a district, or any other agency or subdivision  
12 of the state that employs a person who is designated a member of the retirement system.

13 (8) "Full-time service" means service that is full-time and that extends over a normal academic year of  
14 at least 9 months. With respect to those members employed by the office of the superintendent of public  
15 instruction, any other state agency or institution, or the office of a county superintendent, full-time service means  
16 service that is full-time and that totals at least 9 months in any year.

17 (9) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable  
18 to a governmental plan, as the code provided on July 1, 1999.

19 (10) "Member" means a person who has an individual account in the annuity savings fund. An active  
20 member is a person included under the provisions of 19-20-302. An inactive member is a person included under  
21 the provisions of 19-20-303.

22 (11) "Normal retirement age" means an age no earlier than the age at which the member is eligible to  
23 retire:

24 (a) by virtue of age, length of service, or both;

25 (b) without disability; and

26 (c) with the right to receive immediate retirement benefits without an actuarial or similar reduction in the  
27 benefits ~~because of retirement before a specified age.~~

28 (12) "Part-time service" means service that is less than full-time or that totals less than 180 days in a  
29 normal academic year. Part-time service must be credited in the proportion that the actual time worked  
30 compares to full-time service.

(13) "Prior service" means employment of the same nature as service but rendered before September 1, 1937.

(14) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-20-501(2).

(15) "Retired member" means a person who has terminated employment that qualified the person for membership under 19-20-302 and who has received at least one monthly retirement benefit paid pursuant to this chapter.

~~(16) "Retirement" means the status of a member who has terminated employment and was eligible to apply for retirement benefits under 19-20-801, 19-20-804, or 19-20-901 effective the first day of the month following termination.~~

~~(16)(17)~~(16) "Retirement allowance" means a monthly payment due to a person who has qualified for service or disability retirement or due to a beneficiary as provided in 19-20-1001.

~~(17)(18)~~(17) "Retirement board" or "board" means the retirement system's governing board provided for in 2-15-1010.

~~(18)(19)~~(18) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of Montana provided for in 19-20-102.

~~(19)(20)~~(19) "Service" means the performance of instructional duties or related activities that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

~~(20)(21)~~(20) "Termination" or "terminate" means that the member has severed the employment relationship with the member's employer and that all, if any, payments due upon termination of employment, including but not limited to accrued sick and annual leave balances, have been paid to the member.

~~(21)(22)~~(21) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment and on which employee and employer contributions have been paid as required by 19-20-716.

(b) Termination pay does not include:

(i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) amounts that are payable to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code.

~~(22)(23)(22)~~ "Vested" means that a member has been credited with at least 5 full years of membership service upon which contributions have been made, as required by 19-20-602 and 19-20-605, and who has a right to a future retirement benefit.

~~(23)(24)(23)~~ "Written application" or "written election" means a written instrument, required by statute or the rules of the board, properly signed, and filed with the board, that contains all the required information, including documentation that the board considers necessary."

**Section 2.** Section 19-20-201, MCA, is amended to read:

**"19-20-201. Administration by retirement board.** (1) The retirement board shall administer and operate the retirement system within the limitations prescribed by this chapter, and it is the duty of the retirement board to:

- (a) establish rules necessary for the proper administration and operation of the retirement system;
- (b) approve or disapprove all expenditures necessary for the proper operation of the retirement system;
- (c) keep a record of all its proceedings, which must be open to public inspection;
- (d) submit a report to the office of budget and program planning ~~as a part of the information required by 17-7-111~~, detailing the fiscal transactions for the 2 fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of the retirement system, and the last fiscal year balance sheet showing the assets and liabilities of the retirement system;
- (e) keep in convenient form the data that is necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system;
- (f) prepare an annual valuation of the assets and liabilities of the retirement system;
- (g) prescribe a form for membership application that will provide adequate and necessary information for the proper operation of the retirement system;
- (h) annually determine the rate of regular interest as prescribed in 19-20-501;
- (i) establish and maintain the funds of the retirement system in accordance with the provisions of part 6 of this chapter; and
- (j) perform other duties and functions as are required to properly administer and operate the retirement system.

(2) In discharging its duties, the board, or an authorized representative of the board, may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue

subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104.

~~(2)~~(3) The board may send retirement-related material to employers and the campuses of the Montana university system for delivery to employees. To facilitate distribution, employers and those campuses shall each provide the board with a point of contact who is responsible for distribution of the material provided by the board."

**Section 3.** Section 19-20-208, MCA, is amended to read:

**"19-20-208. Duties of employer.** Each employer shall:

(1) pick up the contribution of each employed member at the rate prescribed by 19-20-602 and transmit the contribution each month to the executive director of the retirement board;

(2) transmit to the executive director of the retirement board the employer's contribution prescribed by 19-20-605, at the time that the employee contributions are transmitted;

(3) keep records and, as required by the retirement board, furnish information to the board that is required in the discharge of the board's duties;

(4) upon the employment of a person who is required to become a member of the retirement system, inform the person of the rights and obligations relating to the retirement system;

(5) each month, report the name, social security number, and gross earnings of each retired member of the system who has been employed in a part-time teaching, administrative, or faculty position under the reemployment provisions of 19-20-804;

~~(5)~~(6) whenever applicable, inform an employee of the right to elect to participate in the optional retirement program under Title 19, chapter 21;

~~(6)~~(7) at the request of the retirement board, certify the names of all persons who are eligible for membership or who are members of the retirement system;

~~(7)~~(8) notify the retirement board of the employment of a person eligible for membership and forward the person's membership application to the board;

~~(8)~~(9) if the employer has converted to earned compensation amounts excluded from earned compensation, for each retiring member, certify to the board the amounts reported to the system in each of the 5 years preceding the member's retirement."

1           **Section 4.** Section 19-20-212, MCA, is amended to read:

2           **"19-20-212. (Effective on occurrence of contingency) General internal revenue service**  
3 **qualification rules.** (1) The board shall distribute the corpus and income of the system to the members and their  
4 beneficiaries in accordance with the system's law. The corpus and income may not, at any time before the  
5 satisfaction of all liabilities with respect to members and their beneficiaries, be used for, or diverted to, purposes  
6 other than the exclusive benefit of the members and their beneficiaries.

7           (2) Forfeitures arising from severance of employment, from death, or for any other reason may not be  
8 applied to increase the benefits that any member would otherwise receive under the state's law. However,  
9 forfeitures may be used to reduce the costs of administration.

10          (3) Distributions from the system may be made only upon retirement, separation from service, disability,  
11 or death.

12          (4) Notwithstanding any provision of law to the contrary, contributions, benefits, and service credit with  
13 respect to qualified military service must be provided in accordance with section 414(u) of the Internal Revenue  
14 Code and the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301,  
15 et seq.

16          (5) The board may maintain a qualified governmental excess benefit arrangement under section 415(m)  
17 of the Internal Revenue Code. ~~The If the board elects to establish a qualified governmental excess benefit~~  
18 arrangement, the board shall adopt rules for the necessary and appropriate procedures for the administration  
19 of the benefit arrangement in accordance with the Internal Revenue Code. The amount of any annual benefit  
20 that would exceed the limitations imposed by section 415 of the Internal Revenue Code must be paid from the  
21 benefit arrangement. The amount of a contribution that would exceed the limitation imposed by section 415 of  
22 the Internal Revenue Code must be credited to the benefit arrangement. The benefit arrangement must be a  
23 separate part of the system. The benefit arrangement is subject to the following requirements:

24          (a) The benefit arrangement must be maintained solely for the purpose of providing to members in the  
25 system that part of the member's annual benefit or contribution otherwise payable under the terms of this chapter  
26 that exceeds the limitations on benefits or contributions imposed by section 415 of the Internal Revenue Code.

27          (b) Members may not elect, directly or indirectly, to defer compensation to the benefit arrangement.

28          (6) The limitation year for purposes of section 415 of the Internal Revenue Code is the school year  
29 beginning September 1 and ending August 31.

30          (7) The plan year is the fiscal year beginning July 1 and ending June 30."

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2       **Section 5.** Section 19-20-402, MCA, is amended to read:

3       **"19-20-402. Creditable service for employment in out-of-state public and federal schools.** (1) (a)

4       A member who has 5 years of active membership service, who has completed 1 full year of active membership  
5       in Montana subsequent to the member's out-of-state service, and who contributes to the retirement system as  
6       provided in subsection (2) may receive creditable service in the retirement system for out-of-state service that  
7       would have been acceptable under the provisions of this chapter if the service had been performed in the state  
8       of Montana.

9       (b) If the member contributed to a public retirement plan, other than social security, while performing  
10       the out-of-state service, the member shall roll the member's contributions over into the retirement system or must  
11       receive a refund of the member's contributions for the service before purchasing service under this section.

12       (c) For the purpose of this section, out-of-state service means service performed:

13       (i) within the United States in a federal or other public school or institution; and

14       (ii) outside the United States in a federal or other public or private school or institution.

15       (2) (a) To purchase the service described in subsection (1)(c)(i), a member who became a member  
16       before July 1, 1989, shall contribute for each year of service to be purchased an amount equal to the combined  
17       employer and employee contribution for the member's first full year's teaching salary earned in Montana after  
18       the member's out-of-state service, plus interest. The contribution rate must be the rate in effect at the time the  
19       member is eligible for the service.

20       (b) To purchase the service described in subsection (1)(c)(ii), a member who became a member before  
21       July 1, 1989, shall contribute for each year of service to be purchased an amount equal to the combined  
22       employer and employee contribution for the member's first full year's teaching salary earned in Montana after  
23       the member's out-of-state service or after the salary was reported to the system for the fiscal year beginning July  
24       1, 1989, whichever date is later, plus interest. The contribution rate must be the rate in effect at the time the  
25       member is eligible to purchase the service or the rate in effect on July 1, 1989, whichever date is later.

26       (c) For each year of service to be credited under this section, a member who became a member on or  
27       after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent valuation of the  
28       system.

29       (3) The interest on contributions required under subsection (2)(a) must be paid at the rate that the  
30       contributions would have earned had the contributions been in the member's account from the date the member

1 was eligible to purchase the service.

2 (4) The contributions and interest required under subsection (2) may be made in a lump-sum payment  
3 or in installments as agreed between the member and the retirement board.

4 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."  
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6 **Section 6.** Section 19-20-414, MCA, is amended to read:

7 **"19-20-414. ~~Rollover or transfer of accumulated contributions~~ Payment methods for purchase**  
8 **of service credit.** (1) A member who is eligible to purchase service under this chapter may at any time before  
9 retirement apply to ~~roll over or transfer the member's accumulated contributions on deposit with any other eligible~~  
10 ~~retirement plan~~ purchase the service credit by making payment as provided in this section.

11 (2) Subject to subsection (3), service credit may be purchased by one, or a combination of, the following  
12 methods:

13 (a) a lump-sum payment;

14 (b) installment payments;

15 (c) direct rollover of eligible distributions from a retirement plan in section 402(c)(8)(B)(iii) or  
16 402(c)(8)(B)(iv) of the Internal Revenue Code;

17 (d) rollover of a distribution from an individual retirement account or annuity described in section 408(a)  
18 or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be included in gross  
19 income;

20 (e) a direct trustee-to-trustee transfer from a governmental 457(b) deferred compensation plan or a  
21 403(b) tax-sheltered annuity for permissive service credit, as defined in section 415(n) of the Internal Revenue  
22 Code.

23 (3) (a) The total amount transferred or rolled over to the retirement system pursuant to subsection (2),  
24 may not exceed the amount due to purchase the service.

25 ~~(2)(b)~~ (b) If, in the case of a transfer, the transferred account includes both tax-deferred and taxed amounts,  
26 the transferring agency shall identify the member's tax-deferred and taxed amounts at the time the transfer is  
27 made.

28 ~~(3)(4)~~ (4) To the extent permitted by section 401(a)(31) of the Internal Revenue Code and as limited by  
29 ~~subsection (4)~~ this section, the board shall accept a direct rollover of eligible distributions from another eligible  
30 retirement plan.

(5) If the member dies before having completed the payment required to purchase the service that the member had applied to purchase, the member's surviving spouse may, subject to the rules and regulations of the Internal Revenue Code, apply to complete the member's service purchase as provided in this section. The surviving spouse must apply to complete the payments and pay the balance due to the system prior to the distribution of benefits."

**Section 7.** Section 19-20-705, MCA, is amended to read:

**"19-20-705. Correction of erroneous payments errors.** (1) If a change or error in the records results in a member or beneficiary receiving from the retirement system more or less than the member or beneficiary would have been entitled to receive had the records been correct, then, on discovery of the error, the retirement board shall correct the error and, as far as practicable, shall adjust the payments so that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled will be paid.

(2) If the amount of a contribution payment is incorrect, the board may reject the payment or accept the payment and approve an arrangement to collect the correct amount, including any or all of the following arrangements:

- (a) adjustment of subsequent payments to the board from a member or an employer;
- (b) collection of installment payments or a lump-sum payment from an employer; or
- (c) collection of installment payments, a lump-sum payment, or a rollover payment from a member.

(3) Upon discovery of a forged signature on a retirement benefit application, the benefit must be corrected as provided in subsection (1)."

**Section 8.** Section 19-20-710, MCA, is amended to read:

**"19-20-710. Maximum benefit limitation.** A monthly benefit paid under the retirement system provided for in this chapter may not exceed the annual limits on benefits as specified in section 415 of the Internal Revenue Code as adjusted for cost-of-living increases for calendar years 1988 and ~~thereafter~~ succeeding years. However, benefits in excess of those limits may be paid from ~~an~~ a qualified governmental excess benefit arrangement subject to ~~19-20-718~~ 19-20-212."

**Section 9.** Section 19-20-715, MCA, is amended to read:

**"19-20-715. Compensation limit.** (1) Compensation in excess of the limitations set forth in section

401(a)(17) of the Internal Revenue Code as adjusted for cost-of-living increases must be disregarded for individuals who are not eligible employees. The limitation on compensation for eligible employees may not be less than the amount that was allowed to be taken into account under this chapter on July 1, 1993. For purposes of this section, an eligible employee is an individual who was a member in the retirement system prior to July 1, 1996. Any changes in the maximum limits under section 401(a)(17) of the Internal Revenue Code must be applied prospectively.

(2) In determining a member's retirement allowance under 19-20-802 or 19-20-804, the compensation reported in each year of the 3 years that make up the average final compensation may not be greater than 110% of the previous year's compensation included in the calculation of average final compensation or the earned compensation reported to the retirement system, whichever is less, except as provided by rule by the retirement board.

(3) Earned compensation in excess of the amount specified in subsection (2) is considered termination pay and must be included in the calculation of average final compensation as provided in 19-20-716."

**Section 10.** Section 19-20-718, MCA, is amended to read:

**"19-20-718. (Effective on occurrence of contingency) Maximum contribution limitation.** (1) Notwithstanding any other provision of law to the contrary, the board may modify a request by a participant to make a contribution to the system ~~if the amount of the contribution that~~ would exceed the limits in section 415(c) or 415(n) of the Internal Revenue Code by using the following methods:

(a) ~~If the system's law requires a lump-sum payment for purchase of service credit, the~~ The board may establish a periodic payment plan in order to avoid a contribution in excess of the limits of section 415(c) or 415(n) of the Internal Revenue Code.

(b) If the board's option in subsection (1)(a) will not avoid a contribution in excess of the limits in section 415(c) of the Internal Revenue Code, the board may direct the excess contribution to the qualified governmental excess benefit arrangement pursuant to section 415(m) of the Internal Revenue Code if a qualified governmental excess benefit arrangement has been established pursuant to 19-20-212.

(2) If the board's options in subsections (1)(a) and (1)(b) will not avoid a contribution in excess of the limits of section 415(c) of the Internal Revenue Code, the board shall reduce or refuse the contribution.

(3) The board shall use the provisions of section 415(n) of the Internal Revenue Code, as the provisions apply to a government plan, to facilitate member's service purchases. An eligible participant in a retirement plan,

as defined by section 1526 of the Taxpayer Relief Act of 1997, 26 U.S.C. 415, may purchase service credit without regard to the limitations of section 415(c)(1) of the Internal Revenue Code under the Montana statutes in effect on August 5, 1997.

(4) For the purpose of calculating the maximum contribution under section 415 of the Internal Revenue Code, the definitions of "compensation", "wages", and "salary" include the amount of any elective deferral, as defined in section 402(g) of the Internal Revenue Code, or any contribution that is contributed or deferred by the employer at the election of the member and that is not includable in the gross income of the member by reason of sections 125, 132(f), 403(b), or 457 of the Internal Revenue Code. Any changes in the maximum limits under section 415 of the Internal Revenue Code must be applied prospectively."

**Section 11.** Section 19-20-719, MCA, is amended to read:

**"19-20-719. Guaranteed annual benefit adjustment -- rulemaking.** (1) Subject to subsection (3), on January 1 of each year, the retirement allowance payable to each recipient who is eligible under subsection (2) must be increased by 1.5%.

(2) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if the ~~retiree's most recent retirement effective date is~~ retiree has received at least 36 ~~months~~ monthly retirement benefit payments prior to January 1 of the year in which the adjustment is to be made.

(3) On January 1, 2002, and January 1 of each year following the system's biennial valuation, the board may increase the annual benefit adjustment provided in subsection (1) until a maximum of 3% is guaranteed if:

(a) the period required to amortize the system's actuarial unfunded liability, as determined by the most recent biennial valuation, adjusted for any benefit enhancement enacted by the legislature since the most recent biennial valuation, is less than 25 years;

(b) sufficient funds are available to increase the guaranteed annual benefit adjustment by at least 0.1%;  
and

(c) the increase granted by the board would not cause the amortization period, as of the most recent valuation, to exceed 25 years.

(4) The board shall adopt rules to administer the provisions of this section."

**Section 12.** Section 19-20-805, MCA, is amended to read:

1       **"19-20-805. Earned compensation -- part-time service.** (1) The earned compensation of a member  
2       who retired under 19-20-802 or 19-20-804 and had less than 3 consecutive years of full-time service during the  
3       5 years immediately preceding the member's retirement TERMINATION is the compensation that the member  
4       would have earned in the final 3 years USED TO CALCULATE AVERAGE FINAL COMPENSATION had the member's  
5       part-time service been full-time service. To determine the compensation that the member would have earned,  
6       the compensation reported must be divided by the part-time service credited to the member's account.

7       (2) (a) IF SUBJECT TO SUBSECTION (2)(B), IF a member has transferred service from the public employees'  
8       retirement system as provided under 19-20-409 and does not have earned compensation for 3 consecutive  
9       years of full-time service reported to the teachers' retirement system in the 5 years immediately preceding  
10       retirement, in order to determine the member's earned compensation, the earned compensation reported to the  
11       public employees' retirement system during the member's final years of employment immediately prior to  
12       becoming a member of the system may be added to the member's earned compensation reported to the system  
13       so that the member's earned compensation is the salary the member would have earned had the member's  
14       part-time service been full-time, THE MEMBER'S AVERAGE FINAL COMPENSATION MAY BE CALCULATED AS FOLLOWS:

15       (I) IF THE MEMBER'S PART-TIME SERVICE CREDIT IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLUS THE  
16       MEMBER'S PART-TIME SERVICE CREDIT IN THE TEACHERS' RETIREMENT SYSTEM EQUALS 1 YEAR IN ANY OF THE FISCAL  
17       YEARS USED IN DETERMINING AVERAGE FINAL COMPENSATION, THEN THE MEMBER'S ANNUAL SALARY FOR THAT FISCAL  
18       YEAR MUST BE THE MEMBER'S SALARY AS A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLUS THE  
19       MEMBER'S SALARY AS A MEMBER OF THE TEACHERS' RETIREMENT SYSTEM; OR

20       (II) IF THE MEMBER'S PART-TIME SERVICE CREDIT IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLUS THE  
21       MEMBER'S PART-TIME SERVICE CREDIT IN THE TEACHERS' RETIREMENT SYSTEM EQUALS LESS THAN 1 YEAR IN ANY OF THE  
22       FISCAL YEARS USED TO DETERMINE AVERAGE FINAL COMPENSATION, THEN THE MEMBER'S PART-TIME SALARY AS A  
23       MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLUS THE MEMBER'S PART-TIME SALARY AS A MEMBER OF THE  
24       TEACHERS' RETIREMENT SYSTEM MUST BE DIVIDED BY THE SUM OF THE MEMBER'S PART-TIME TEACHERS' RETIREMENT  
25       SYSTEM SERVICE CREDIT AND THE MEMBER'S PART-TIME PUBLIC EMPLOYEES' RETIREMENT SYSTEM SERVICE CREDIT,  
26       DIVIDED BY THE MEMBER'S PART-TIME TEACHERS' RETIREMENT SYSTEM SERVICE CREDIT.

27       (b) Compensation reported to the public employees' retirement system used to calculate average final  
28       compensation must be adjusted to exclude any compensation that would be considered termination pay under  
29       this chapter."

1           **Section 13.** Section 19-20-905, MCA, is amended to read:

2           **"19-20-905. Cancellation of allowance and restoration of membership.** (1) If a disabled retiree is  
3 employed full-time in a capacity that would otherwise meet the eligibility requirements of active membership, as  
4 provided under 19-20-302, the retiree's retirement allowance must cease. If the retiree is employed full-time by  
5 an employer covered under this chapter, the retiree shall again become an active member of the retirement  
6 system. Any prior service certificate on the basis of which the member's service was computed at the time of  
7 the member's disability retirement must be restored to full force, and upon the member's subsequent retirement,  
8 the member must be credited with the prior service and all subsequent service as a member.

9           (2) If the member is restored to active membership on or after the attainment of the age of 55 years,  
10 the member's retirement allowance upon subsequent retirement may not exceed the retirement allowance that  
11 the member would have received had the member remained in service during the period of the member's  
12 previous retirement or the sum of the retirement allowance that the member was receiving immediately prior to  
13 the member's last restoration to service and the retirement allowance that the member would have received on  
14 account of the member's service since the member's last restoration had the member entered service at that  
15 time as a new member."

16  
17           **Section 14.** Section 19-20-1101, MCA, is amended to read:

18           **"19-20-1101. Withholding of group insurance premium from retirement allowance.** (1) A retired  
19 member who is a participant in an employer-sponsored group insurance plan may elect to have the monthly  
20 premium for ~~such~~ the group insurance withheld from ~~his~~ the member's retirement allowance by the retirement  
21 system and paid directly to the insurance carrier or employer of record at the time of retirement.

22           (2) Upon the death of a retired member, the beneficiary, if eligible, may elect to continue to have the  
23 monthly insurance premium withheld from a monthly retirement benefit and paid directly to the employer or the  
24 employer's insurance carrier."

25  
26           NEW SECTION. **Section 15. Effective date.** [This act] is effective on passage and approval.

27                           - END -